

**MINUTES OF THE
HEALTH REFORM TASK FORCE**

Thursday, December 12, 2013 – 10:00 a.m. – Room 30 House Building

Members Present:

Sen. Allen Christensen, Senate Chair
Rep. James A. Dunnigan, House Chair
Sen. J. Stuart Adams
Sen. Gene Davis
Rep. Rebecca Chavez-Houck
Rep. Rebecca P. Edwards
Rep. Francis D. Gibson
Rep. Michael S. Kennedy
Rep. Marie H. Poulson

Rep. Dean Sanpei

Members Absent:

Sen. Peter C. Knudson

Staff Present:

Mr. Mark D. Andrews, Policy Analyst
Ms. Cathy J. Dupont, Associate General Counsel
Ms. Lori Rammell, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Task Force Business

Chair Dunnigan called the meeting to order at 10:35 a.m. Sen. Knudson was excused from the meeting.

MOTION: Sen. Christensen moved to approve the minutes of the November 21, 2013, meeting. The motion passed unanimously. Sen. Adams and Sen. Davis were absent for the vote.

2. Federal Regulations Update

Ms. Dupont distributed "Recent Federal Regulations and Guidance" and briefed the task force on recent federal Affordable Care Act (ACA) regulations and implementation guidance. She pointed out that the federal government's authorization for states to renew health insurance plans not grandfathered under the ACA will have an impact on ACA risk adjustment. She also highlighted the federal authorization for individuals to enroll in exchange coverage directly through insurance carriers, noted that the final rules for mental health parity do not differ markedly from the preliminary rules, and explained that individuals will be allowed to purchase coverage through the end of March, 2014, in order to comply with the ACA's individual mandate.

Ms. Dupont explained how the federal government intends to operate the small employer health insurance exchange in states that have elected to have the federal government operate that exchange. She noted that because the federal government has announced that small employers enrolling in a qualified health plan through a broker rather than the exchange will still be eligible for insurance premium tax rebates, there is a question of whether employers in states running the exchange themselves, like Utah, will also be eligible for tax rebates if the employers purchase qualified coverage outside the exchange.

3. January 1, 2014

Mr. Randal Serr, Director, Take Care Utah (Utah Health Policy Project—UHPP), said there has been a surge in individuals coming to UHPP's office for help applying for health insurance. He said that over 13,000 Utahns have completed applications for insurance through the federal government's HealthCare.gov website and that just over 1,000 individuals have chosen a plan. He noted that a large number of children applicants have qualified for Medicaid. He said many people are not aware of the premium subsidies available to them, though 84% of those registering on HealthCare.gov qualify for a subsidy. He said UHPP is launching a new advertising campaign, in collaboration with the Association for Utah Community Health

(AUCH), aimed at “young invincibles” who need encouragement to enroll in coverage. He distributed examples of campaign print ads. Mr. Serr also said that UHPP has not received any response from the federal marketplace concerning applications UHPP submitted on paper rather than through HealthCare.gov. He noted that he doesn’t see any solution to the difficulty some applicants have in supplying the documentation required by HealthCare.gov.

Mr. Alan Pruhs, Executive Director, AUCH, reported on the 54 certified application counselors in Utah operating within Utah’s community and migrant health centers or as part of the Utah Healthcare Corps, which is managed by AUCH. He said the counselors educated 14,000 “lives” between October 1, 2013, and December 6, 2013, through in-person contacts, phone calls, and outreach. He said 580 individuals working with the counselors have enrolled in insurance through the federal marketplace and over 700 have enrolled in Medicaid or the Children’s Health Insurance Program (CHIP). He noted that counselors are observing that many adults applying for insurance qualify neither for Medicaid nor for federal subsidies, so they go without coverage. He indicated AUCH will modify its data collection process in order to quantify the number of adults going without coverage.

Mr. Lloyd Coleman, President, Utah Health Underwriters Association, said that HealthCare.gov is working much better and that an application can be completed in as few as 20 minutes. He said the website still has some glitches, including sometimes telling people they are eligible for subsidies when they are not, and sometimes telling others they are eligible for CHIP when they are not. He expressed concern that if an enrollee begins the HealthCare.gov enrollment process with an exchange navigator, there is no way for an insurance agent to be added to the account so that the agent can assist the enrollee as well, (e.g., with enrollment changes during the year). Mr. Coleman reported that overall, however, the site is working much better than it was. He also said the insurance agents’ alliance with exchange navigators and certified application counselors is working quite well. And he indicated he is sure there will be cases where insurance carriers won’t have enough time to get insurance cards to enrollees before the beginning of the new year.

Mr. Frank Pignanelli, Regence Blue Cross Blue Shield of Utah (BCBS), said enrollment in BridgeSpan, an individual insurance market product developed by BCBS but administered by a BCBS holding company, is at 114 as of December 5, 2014. He said he does not know how many of the 114 individuals had January renewal anniversaries. He also indicated he does not know how the quality of data BridgeSpan is receiving compares with media reports about data quality. He said he expects payments by the federal marketplace to BridgeSpan will be delayed.

Ms. Judi Hilman, Chief Member Advocate, Arches Co-op Health Plan, reported Arches has seen only a trickle of enrollees, an amount not up to minimum business standards. However, she said that since November 30, there has been quite an uptick in enrollment. She said the direct enrollment option is not as functional as it needs to be because carriers still need to go through HealthCare.gov to complete enrollment. She said that with thousands of paper applications piling up, Arches is still in a bottleneck situation that will be pretty chaotic at the end of the year. She said Arches has enrolled between 600 and 700 individuals. On the bright side, she said, applicants have had more time to scrutinize plans. Ms. Hilman also described her experience enrolling in employee coverage through Avenue H and congratulated Avenue H on how well it functions as an exchange.

Mr. Shaun Greene, Chief Operating Officer, Arches Health Plan, said the federal government’s proposed direct enrollment workaround for HealthCare.gov is not working as advertised because all roads lead back to HealthCare.gov. He noted Arches has enrolled more individuals in its group plans than the federal marketplace has enrolled in the entire state. He also indicated that many people who are applying for coverage through HealthCare.gov and have incomes below 200% of the federal poverty level are prevented from enrolling in coverage because they are assessed eligible for Medicaid, even though they are not. He

said that although for certain types of enrollees he has seen enrollment through HealthCare.gov take 20 or 30 minutes, in most cases enrollment through the website is still problematic.

Mr. Bob White, Chief Information Officer and Vice President, SelectHealth, reported SelectHealth will begin direct enrollment in federal marketplace coverage on a limited basis, beginning the week of December 12, 2013. He said most transactions in the process will occur on SelectHealth's website. However, because three interactions with the federal marketplace will still be required, the instability of HealthCare.gov poses a challenge to direct enrollment. Mr. White reported that 1,726 individuals have applied through the federal marketplace for coverage by SelectHealth and 500 individuals have made payment for that coverage.

Mr. Frank Kyle, Director of Regulatory Affairs, Altius Health Plans, reported Altius has seen an improvement in the health insurance market, particularly the individual market, but said there is still much to be done. He said a large portion of applications for Altius plans have been by individuals who are 50 years of age or older. He said the rate of early plan renewals has been good. He noted that the potential for non-Medicaid-eligible individuals to misstate their income when applying for coverage through the federal marketplace could have future impacts on those individuals and insurance carriers. Mr. Kyle did not know the number of persons who have enrolled in Altius health insurance plans through the federal marketplace.

Mr. Chad Westover, President, Molina Healthcare of Utah, said the front end for enrollment in the federal marketplace is getting better, but the back end still has problems. He reported that the marketplace has a 10% error rate, which includes problems assigning information to the right person and to any person at all. He indicated that some people will not know whether they are enrolled until they go to their doctors. Mr. Westover did not know what the error rate is for Molina enrollees, which now total less than 50. Mr. Westover said direct enrollment may be a good idea, but Molina resists it unless consumers are able to receive accurate information.

Mr. Kevin Burt, Associate Director of Programs and Training, Department of Workforce Services (DWS), reported there have been 1,000 individuals so far who were ineligible for Medicaid in 2013 but are eligible in 2014 as a result of the ACA's mandatory Medicaid eligibility expansion. He indicated Healthcare.gov's process for Medicaid enrollment has not seen the same improvements as the website's process for enrollment in commercial coverage. He reported the U.S. Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) reported December 6, 2013, that it is unable to use the data sent to it by states, like Utah, for the federal marketplace. This means individuals who begin the insurance application insurance process with DWS but are ineligible for Medicaid will have to reapply for coverage with the federal marketplace. On the other hand, no data is being transferred from the federal marketplace to the states. He said the federal government has stopped publishing when it will have the data transfer problems fixed.

Mr. Burt said that through November 30, 2013, the federal marketplace had assessed 10,000 Utahns eligible for Medicaid or CHIP and that transfer of those assessments to the state is still pending. He does not know how many of those individuals assessed eligible are not actually eligible. He reported hearing that CMS is assessing people with incomes between 100% and 138% of the federal poverty level as eligible for Medicaid (even though many of those individuals are not eligible under Utah Medicaid rules).

Mr. Burt discussed people who are "stuck" or "frozen" in the enrollment process as a result of the problems with the federal marketplace and said that DWS is unable to unstick or unfreeze them.

Ms. Nancy Askerlund, Director, Life and Health Insurance Division and Office of Consumer Health Assistance, Utah Insurance Department, said the department has issued a bulletin with guidance on how

insurers may renew nonqualified health plans through 2015. She reported that the department has issued 11 navigator organization licenses, 16 individual navigator licenses, and 22 limited-scope navigator licenses for certified application counselors. She said the department has also received seven applications for navigator or limited-scope navigator licenses. She said the department is investigating complaints by individuals who are receiving phone calls seeking to persuade them to change their income declarations on HealthCare.gov in order to qualify for federal subsidies. She said these calls are likely insurance fraud.

Mr. Jaakob Sundberg, Actuary, Utah Insurance Department, reported that the department is working with the Center for Consumer Information and Insurance Oversight (within CMS) on the state's November 14, 2013, application for a Section 1331 grant for risk adjustment funding, and that the department should know by the end of December 2013 whether the grant has been approved. He said the department is also working with Wakely Consulting to complete and submit an application next week for the state to run the ACA risk adjustment program using a methodology that is slightly different than the federal methodology and includes use of the state's All-payers [Health Insurance] Claims Database. He noted that this application does not obligate the state to run the risk adjustment program in 2015.

Ms. Patty Conner, Director, Office of Consumer Health Services, Governor's Office of Economic Development, reported that Avenue H is enrolling and registering small employer groups. She said employers will be able to register through December 16, 2013, for coverage beginning in January 2014, and employees will be able to enroll for that coverage through December 23, 2013. She said Avenue H will release enrollment figures on December 24, 2013.

Ms. Sally Burns, Associate Director, HIPUtah, reported HIPUtah has continued to send out information, including lists of navigators, websites, and other helpful facts, to assist its enrollees in finding new health insurance coverage. She said that termination notices were sent to enrollees December 5, 2013, and that HIPUtah will close December 31, 2013. She said the communication efforts seem to be working, but a number of enrollees are having trouble getting coverage through the federal marketplace. She reported some people are determined eligible for Medicaid when they are not, and others cannot enroll because they do not have any income. She expressed concern that marketplace applicants could miss the payment page at the end of the enrollment process and not actually have coverage. She said the HIPUtah administrator expects to be deluged with calls at the end of December.

4. Legislation for the 2014 General Session

Ms. Dupont distributed and discussed draft legislation "Reauthorization of Utah Health Data Authority Act" (2014FL-0432/009), which reauthorizes the Health Data Committee within the Department of Health for 10 years; modifies the membership of the committee by including the insurance commissioner, or the commissioner's designee; and modifies the committee's data sharing authority.

MOTION: Sen. Davis moved to adopt draft legislation "Reauthorization of Utah Health Data Authority Act" as a committee bill.

Rep. Sanpei asked whether the task force had previously discussed this draft legislation. Ms. Dupont said it had not. Rep. Sanpei asked about the bill's risk adjustment provisions. Ms. Dupont responded with an explanation of the state's All-payers [health insurance] Claims Database and the use of that information for risk adjustment.

The motion passed unanimously. Sen. Adams was absent for the vote.

Ms. Dupont distributed draft legislation "Health Reform Amendments" (2014FL-0263/003). She reviewed the following issues addressed by the legislation:

- 1) the period of time an employee of a state contractor must be enrolled in health insurance (changing from 90 days to 60 days to conform to federal law);
- 2) navigator licensing (recognizing two types of navigator licensing, including certified application counselors);
- 3) exemptions from the requirements for navigator licensing (adding Indian Health Centers);
- 4) changes to the Utah Comprehensive Health Insurance Pool statute (addressing closure of the pool);
- 5) risk adjustment (addressing the possibility of a state-run risk adjustment program);
- 6) establishment of a three-year small-employer health insurance premium rebate program; and
- 7) reauthorization of the Health Care Compact through July 1, 2019.

The task force discussed whether the closure of HIPUtah should be delayed.

MOTION: Sen. Davis moved that the task force encourage the HIPUtah Board: 1) to reconsider its action to close HIPUtah at the end of the year; and 2) to keep HIPUtah operating until the Legislature determines what should be done with the program. The task force debated the motion. The vote on the motion then failed, with Sen. Davis, Rep. Chavez-Houck, and Rep. Poulson voting in favor. Sen. Adams and Rep. Edwards were absent for the vote.

The task force did not take action on draft legislation "Health Reform Amendments" (2014FL-0263/003).

5. Optional Medicaid Expansion

Chair Dunnigan distributed and discussed "Expansion of Health Care Coverage," a chart which describes three Medicaid eligibility expansions adopted by the task force at its November 21, 2013, meeting, but which includes some additional nuances. Rep. Sanpei said the details in the chart are consistent with the principles adopted at the same meeting and provide additional clarity. He reviewed some of the details.

Rep. Dunnigan discussed the state budget and economic impacts of the options. Mr. Nate Checketts, Health Reform Coordinator, Utah Department of Health, indicated he sent economic impact information based on the Public Consulting Group study released earlier this year to certain members of the task force and that he will send that information again. He indicated he can break out the administrative costs from other costs for each option and said that whether the state's costs could be reduced, or eliminated entirely, under a fixed payment agreement with the federal government (rather than a 90/10 division of costs) would depend on the specifics of the agreement.

MOTION: Sen. Christensen moved to adopt "Expansion of Health Care Coverage," an updated version of what was discussed at the task force's November 21, 2013, meeting. The motion passed with Rep. Chavez-Houck voting in opposition. Sen. Adams, Sen. Davis, and Rep. Edwards were absent for the vote.

6. Adjourn

MOTION: Sen. Christensen moved to adjourn the meeting. The motion passed unanimously with Sen. Adams, Sen. Davis, and Rep. Edwards absent for the vote.

Chair Dunnigan adjourned the meeting at 12:34 p.m.